

IN THE UNITED STATES DISTRICT COURT IN AND FOR
THE DISTRICT OF DELAWARE

EQUAL EMPLOYMENT)	
OPPORTUNITY COMMISSION,)	
)	
Plaintiff)	
v.)	C.A. No. 05-697-MPT
)	
BE&K Engineering Company)	
(subsidiary of BE&K, Inc.),)	
)	
Defendant.)	

**AFFIDAVIT OF JAMES H. McMACKIN III IN SUPPORT
OF DEFENDANT'S REQUEST FOR ATTORNEY'S FEES**

James H. McMackin III, being duly sworn, deposes and states:

1. I make this Affidavit of my own personal knowledge and can testify hereto if called as a witness.
2. I am a practicing attorney in Wilmington, Delaware, in the law firm of Morris James, LLP ("Morris James").
3. I was admitted to practice before the Delaware Supreme Court in 2002 and have practiced in this jurisdiction since my admission. I was also admitted to the District of Delaware in 2003, and the Court of Appeals for the Third Circuit in 2007.
4. My practice is concentrated in the areas of Employment Law, Education Law and Governmental Relations.
5. I received my Bachelor's Degree from Muhlenberg College and I received my juris doctorate from the Widener University School of Law.
6. I am a member of the Delaware State Bar Association, and currently preside as Secretary of the Labor and Employment Section.
7. My standard hourly rate for employment matters is \$230 per hour.

8. Over the course of my practice I have become familiar with the market rates for attorneys who practice in the labor and employment area in the District of Delaware. My rate is consistent with those prevailing market rates commensurate with levels of expertise and experience.

9. In my view, the currently hourly rate of \$290 per hour for Margaret M. DiBianca, Esquire, is reasonable for employment law matters and within the range of prevailing rates in this area.


JAMES H. MCMACKIN, III

SWORN TO AND SUBSCRIBED before me this 20th day of March, 2008.


NOTARY PUBLIC

My Commission Expires: 8/17/09

Dated: March 20, 2008

JANET A. McVEY
NOTARY PUBLIC
STATE OF DELAWARE
My Commission Expires Aug. 17, 2009